

**EXHIBIT A**

TODD C. BANK vs ICOT HOLDINGS, LLC  
1:18-CV-02554 - JACOB ZELLWEGER

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NEW YORK

TODD C. BANK, et al,  
Plaintiff,

vs. CIVIL ACTION NUMBER  
1:18-CV-02554-AMD-PK  
(E.D.N.Y.)

ICOT HOLDINGS, LLC,  
and ICOT HEARING SYSTEMS, LLC,  
d/b/a LISTENCLEAR,  
Defendant.

-----/

The deposition of JACOB ZELLWEGER, a  
witness in the above-entitled cause, taken  
pursuant to Notice and agreement, before Kyle J.  
Saniga, Certified Court Reporter and Notary  
Public, at the Offices of Coastal Court  
Reporting & Video Inc., The Altmayer Building,  
100 Bull Street, Suite 200, Savannah, Georgia,  
on the 8th day of August 2019, commencing at or  
about the hour of 10:11 a.m.

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- - -

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D O C U M E N T A R Y E V I D E N C E

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REPORTER'S NOTE: PLAINTIFF'S EXHIBIT NUMBER 1  
WAS RETAINED BY PLAINTIFF'S COUNSEL.

## EXHIBIT A

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- 1 A No, not that I'm aware of.  
2 Q Okay. About how many employees work in  
3 the office here in Savannah?  
4 A 85.  
5 Q Okay. So is it fair to say that  
6 roughly 65 work in the Tulsa office?  
7 A I'd say that was a little high. Maybe  
8 it's more like 90 45 there, something like that.  
9 Q 90 here and 45 there?  
10 A Yeah.  
11 Q Is there particular reason why  
12 ListenClear has two offices rather than just  
13 one?  
14 A Our hearing aids are assembled in Tulsa  
15 when we purchased them.  
16 Q So it's in Tulsa they assemble the  
17 hearing aids?  
18 A Correct.  
19 Q Do they do anything else there?  
20 A We have a call center there.  
21 Q And is that similar to the call center  
22 -- I'm sorry, do you have a call center here in  
23 Savannah?  
24 A Yes.  
25 Q And are those two call centers similar?



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- 1 A I'm trying to think. I mean I don't  
2 know any specifics of them. We'll get -- you  
3 know, we've got a few complaints and I don't  
4 know, a couple we've settled with, so.  
5 Q And as part of these complaints have  
6 the people making the complaints alleged they  
7 never gave consent to making -- to receiving  
8 these calls?  
9 A Depends on the complaint, yeah. I mean  
10 some people say they never gave consent. I mean  
11 that's what most of the letters say.  
12 Q And in response did ListenClear ever  
13 try to explain or convince the complainer that  
14 there was actually consent?  
15 A Yes. We send out a little thing that  
16 says here's the opt-in info we have for you on  
17 file and if you have any other questions please  
18 contact somebody.  
19 Q And contact --  
20 A Usually we have -- I know we've sent  
21 them out a couple of times but now we've got  
22 MacMurray and Shuster take care of it, so.  
23 Q Have you -- has ListenClear ever  
24 convinced any of these complainers that they  
25 actually had given concept?



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- 1 A No.  
2 Q How are they different?  
3 A They're just different in the number of  
4 sales reps.  
5 Q Okay. What -- and where are the  
6 majority of the sales reps?  
7 A In Savannah.  
8 Q Okay. Other than the numbers being  
9 different, is the work the same for the sales  
10 reps in both locations?  
11 A Correct.  
12 Q Other than -- okay. Other than the  
13 ones that we're here for today, the Hennie suit  
14 and the Charvat case do you know any other  
15 lawsuit against ListenClear relating to  
16 telephone calls?  
17 A Yes.  
18 Q And can you tell me about those?  
19 A I don't know if they're lawsuits but I  
20 mean they're -- sometimes we get in just, you  
21 know, regular e-mail complaints. Sometimes  
22 we've got a letter from a lawyer. I mean I  
23 don't know what the correct definition of an  
24 actual lawsuit would be.  
25 Q Uh-huh.



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- 1 A Oh I'm sure. I mean there's been a lot  
2 of people that we've never -- you know, we've  
3 sent that out and never heard from them again.  
4 Q But some you have heard from again?  
5 A Yeah.  
6 Q And so in those situations is it  
7 correct that they maintain that they had not  
8 consented?  
9 A Well I don't know if they necessarily  
10 maintain they didn't consent. They just  
11 maintain they want money for calls made to them.  
12 I mean there's usually -- when you look at those  
13 letters there's usually like ten different  
14 paragraphs of stuff you don't understand so we  
15 would send it to MacMurray and Shuster.  
16 Q Well have you ever had -- have any of  
17 these complainers at any point admitted that  
18 they actually had consented to receiving the  
19 call or calls?  
20 A I mean I don't talk to them or hear  
21 from them personally so I have no idea.  
22 Q Did ListenClear ever contact Prospects  
23 with respect to any of these complaints?  
24 A Yes.  
25 Q And did Prospects always provide some



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## D I S C L O S U R E

Pursuant to Article 8.B. of the Rules  
and Regulations of the Board of Court Reporting  
of the Judicial Council of Georgia, I make the  
following disclosure:

I am a Georgia Certified Court Reporter.  
I was contacted by my office of Coastal Court  
Reporting, Inc. to provide court reporting  
services for this deposition.

I will not be taking this deposition  
under any contract that is prohibited by  
O.C.G.A. 15-14-37(a) and (b).

I have no contract/agreement to provide  
reporting services with any party to the case,  
any counsel in the case or any reporter or  
reporting agency from whom a referral might have  
been made to cover the deposition.

I will charge its usual and customary  
rates to all parties in the case, and a  
financial discount will not be given to any  
party to this litigation.

*Kyle J. Saniga*

Date: August 8, 2019

Kyle J. Saniga, CCR, B-2038



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## DEPOSITION ERRATA SHEET

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JACOB ZELLWEGER



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## ERRATA SHEET

CAPTION: TODD C. BANK, et al. VS-  
ICOT HOLDINGS, LLC,  
and ICOT HEARING SYSTEMS, LLC,  
d/b/a LISTENCLEAR

## DECLARATION UNDER PENALTY OF PERJURY

I declare under penalty of perjury  
that I have read the entire transcript  
of my Deposition taken in the  
above-captioned matter or the same  
has been read to me and the same is  
true and accurate, save and except for  
changes and/or corrections, if any, as  
indicated by me on the COASTAL COURT  
REPORTING DEPOSITION ERRATA SHEET  
hereof, with the understanding that I  
offer these changes as if still under  
oath. Signed on the \_\_\_\_\_ day of  
\_\_\_\_\_, 2019.

JACOB ZELLWEGER (Deponent)

SWORN TO and subscribed before me  
THIS \_\_\_\_\_ day of \_\_\_\_\_, 2019

NOTARY PUBLIC: \_\_\_\_\_

My commission Expires: \_\_\_\_\_



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## DEPOSITION ERRATA SHEET

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SIGNATURE: \_\_\_\_\_ DATE: \_\_\_\_\_  
JACOB ZELLWEGER



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May 07, 2019

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<p>1 2 IN THE UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF NEW YORK 3 -----X 4 TODD C. BANK, Individually and on 5 Behalf of All Others Similarly Situated, 6 Plaintiff, 7 8 Index No. 9 1:18-cv-02554-AMD-PK 10 11 -against- 12 13 ICOT HOLDINGS, LLC, and ICOT 14 HEARING SYSTEMS, LLC, 15 Defendants. 16 -----X 17 ICOT HEARING SYSTEMS, LLC, 18 Third-Party Plaintiff, 19 -against- 20 PROSPECTS DM, INC., 21 Third-Party Defendant. 22 -----X 23 24 May 7th, 2019 25 2:00 p.m.</p> <p>EXAMINATION BEFORE TRIAL of the Plaintiff, TODD C. BANK, taken by the Defendants, pursuant to a Notice, held at the offices of ESQUIRE DEPOSITION SOLUTIONS, 8900 Sutphin Boulevard, Suite 308C, Jamaica, New York 11435, before AMANDA ALVAREZ, a</p>	<p>1 2 A P P E A R A N C E S 3 4 TODD C. BANK, ATTORNEY AT LAW, P.C. 5 Attorneys for the Plaintiff 6 119-40 Union Turnpike, Fourth Floor 7 Kew Gardens, New York 11415 8 9 BY: TODD C. BANK, ESQ. 10 P: (718) 520-7125 11 E: tblaw101@aol.com 12 13 MAC MURRAY &amp; SHUSTER LLP 14 Attorneys for the Defendants 15 6525 West Campus Oval, Suite 210 16 New Albany, Ohio 43054 17 18 BY: HELEN MAC MURRAY, ESQ. 19 P: (614) 939-9955 20 F: (614) 939-9954 21 E: hmacmurray@mslawgroup.com 22 23 24 25</p>
Page 2	Page 4
<p>1 2 Professional Court Reporter and a Notary Public 3 of the State of New York. 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25</p>	<p>1 2 FEDERAL STIPULATIONS 3 4 5 IT IS HEREBY STIPULATED AND AGREED by 6 and between the attorneys for the respective 7 parties herein, that filing and sealing be and 8 the same are hereby waived. 9 10 IT IS FURTHER STIPULATED AND AGREED 11 that all objections, except as to form of the 12 question, shall be reserved to the time of the 13 trial. 14 15 IT IS FURTHER STIPULATED AND AGREED 16 that the within deposition may be sworn to and 17 signed before any officer authorized to 18 administer an oath, with the same force and 19 effect as if signed and sworn to before this 20 Court. 21 22 23 24 25</p>

TODD C. BANK

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<p style="text-align: right;">Page 5</p> <p>1</p> <p>2 TODD C. BANK, having been first duly</p> <p>3 sworn by a Notary Public of the State of New</p> <p>4 York, testified as follows:</p> <p>5 EXAMINATION BY MS. MAC MURRAY:</p> <p>6 Q. State your name for the record,</p> <p>7 please.</p> <p>8 A. Todd C. Bank.</p> <p>9 Q. State your address for the record,</p> <p>10 please.</p> <p>11 A. 119-40 Union Turnpike, Fourth</p> <p>12 Floor, Kew Gardens, New York 11415.</p> <p>13 Q. I am Helen Mac Murray, as you know,</p> <p>14 and I represent the defendants ICOT Holdings,</p> <p>15 LLC, and ICOT Hearing Systems, LLC. You are</p> <p>16 the named plaintiff in this action, and we are</p> <p>17 here to take your deposition regarding the</p> <p>18 facts alleged in the complaint.</p> <p>19 A. Okay.</p> <p>20 Q. You are an attorney at law, so I'm</p> <p>21 not going to bother with any of the</p> <p>22 requirements and understandings and those kinds</p> <p>23 of things. I will ask if there are any</p> <p>24 medications, illnesses or conditions that would</p> <p>25 prevent you from being able to fully understand</p>	<p style="text-align: right;">Page 7</p> <p>1 T. BANK</p> <p>2 exclusively in the area of telemarketing</p> <p>3 violations.</p> <p>4 Q. Is that where you are always a</p> <p>5 plaintiff, or have you also handled cases where</p> <p>6 you are an attorney and not a party in the</p> <p>7 suit?</p> <p>8 A. I have represented clients, if I</p> <p>9 understand your question correctly.</p> <p>10 Q. Yes.</p> <p>11 A. Yes.</p> <p>12 Q. Are you licensed in the State of</p> <p>13 New York?</p> <p>14 A. Yes.</p> <p>15 Q. Are you licensed in any other</p> <p>16 states?</p> <p>17 A. Not in any other state court</p> <p>18 systems.</p> <p>19 Q. Have you appeared in any other</p> <p>20 state or federal courts?</p> <p>21 A. Yes.</p> <p>22 Q. In a pro hac vice type of</p> <p>23 situation?</p> <p>24 A. Among other ways, yes.</p> <p>25 Q. Which of the other ways?</p>
<p style="text-align: right;">Page 6</p> <p>1 T. BANK</p> <p>2 my questions today and tell the truth.</p> <p>3 A. I don't believe so.</p> <p>4 Q. How long have you been an attorney?</p> <p>5 A. For -- a licensed attorney?</p> <p>6 Q. Yes.</p> <p>7 A. Twenty-two years.</p> <p>8 Q. Where did you go to law school?</p> <p>9 A. Brooklyn Law School.</p> <p>10 Q. Have you always practiced on your</p> <p>11 own?</p> <p>12 A. No.</p> <p>13 Q. What other types of legal practices</p> <p>14 have you had besides your own practice, just</p> <p>15 generally?</p> <p>16 A. I worked for a couple of law firms</p> <p>17 after law school and also had some -- a smaller</p> <p>18 series of very temporary and/or part-time</p> <p>19 positions also soon after law school.</p> <p>20 Q. How long have you had your own</p> <p>21 individual practice?</p> <p>22 A. Just about 20 years.</p> <p>23 Q. Today, can you give me a general</p> <p>24 idea of the types of law that you practice?</p> <p>25 A. I practice mostly but not</p>	<p style="text-align: right;">Page 8</p> <p>1 T. BANK</p> <p>2 A. Well, I'm admitted in the District</p> <p>3 of Connecticut. I'm admitted in a number of</p> <p>4 federal circuits. I am also admitted in the</p> <p>5 United States Supreme Court. So in cases like</p> <p>6 that, I obviously would have to apply for a pro</p> <p>7 hac vice.</p> <p>8 Q. Let's talk about today's case. In</p> <p>9 your complaint, you talk about two phone calls</p> <p>10 that you received; is that correct?</p> <p>11 A. Two calls among others, yes.</p> <p>12 Q. When you say "among others," can</p> <p>13 you describe what you are talking about,</p> <p>14 please?</p> <p>15 A. Sure. As alleged in the further</p> <p>16 amended complaint -- and when I do say</p> <p>17 "complaint," I mean the amended complaint is</p> <p>18 the only operable complaint, of course.</p> <p>19 Q. That's fair.</p> <p>20 A. I do allege in the complaint that</p> <p>21 there were dozens of calls that had the same</p> <p>22 caller ID information as did the first of the</p> <p>23 two calls that I answered and that I am</p> <p>24 specifically alleging in the complaint.</p> <p>25 Q. Did you answer more than the two</p>

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<p style="text-align: right;">Page 13</p> <p>1 T. BANK</p> <p>2 so that other people don't break the law</p> <p>3 offensive. Just like if I didn't lock my door</p> <p>4 at night and somebody broke into my home, I</p> <p>5 would assume -- I would hope that the police</p> <p>6 would still arrest that person and that I would</p> <p>7 be able to sue that person for any damages,</p> <p>8 even if I was foolish for leaving my door open</p> <p>9 as a practical matter.</p> <p>10 Q. What telephone number are you</p> <p>11 talking about?</p> <p>12 A. The number is (516) 489-0961, and</p> <p>13 it's -- I either alleged that in complaint --</p> <p>14 but if not, I think it's elsewhere documented.</p> <p>15 I don't think it is alleged in the complaint,</p> <p>16 actually.</p> <p>17 Q. Say the number again, please.</p> <p>18 A. Sure. It's (516) 489-0961.</p> <p>19 Q. The number that is alleged in the</p> <p>20 complaint, (516) 217-3754, what number is that?</p> <p>21 A. That is the caller ID number that</p> <p>22 appeared on the dozens of calls that I</p> <p>23 described as well as the first two calls that I</p> <p>24 answered that led me to speak to someone who</p> <p>25 identified himself as Mathew Tollis.</p>	<p style="text-align: right;">Page 15</p> <p>1 T. BANK</p> <p>2 you're the deponent so --</p> <p>3 A. I understand --</p> <p>4 Q. And this is --</p> <p>5 A. You are not allowed to ask</p> <p>6 anything.</p> <p>7 Q. This is a telemarketing --</p> <p>8 A. I understand.</p> <p>9 Q. I am asking about your telephone</p> <p>10 numbers you received calls at.</p> <p>11 A. I understand, but there is no</p> <p>12 similarity. In other words, just by way of</p> <p>13 example, if I understand, it's not like the</p> <p>14 number I have at home is (516) 498-0961 and</p> <p>15 there might be some question of they were</p> <p>16 trying to reach that number and reached my</p> <p>17 mother's number or something like that, if</p> <p>18 that's what you are asking about.</p> <p>19 Q. I don't know what the circumstances</p> <p>20 may be, but I certainly think it's a relevant</p> <p>21 question.</p> <p>22 A. Well, you have my number in any</p> <p>23 event. It's on my letterhead.</p> <p>24 Q. Thank you. Who resides at the home</p> <p>25 where the (516) 489-0961 is?</p>
<p style="text-align: right;">Page 14</p> <p>1 T. BANK</p> <p>2 Q. I am going to refer to your</p> <p>3 landline as (516) 489-0961. Is that okay?</p> <p>4 A. Certainly.</p> <p>5 Q. The landline telephone number, do</p> <p>6 you have more than one or is it just --</p> <p>7 A. There are multiple physical</p> <p>8 telephones.</p> <p>9 Q. Can you tell me where they are</p> <p>10 located?</p> <p>11 A. They're in my mother's home, if</p> <p>12 that's what you mean.</p> <p>13 Q. What that address is that? Is that</p> <p>14 the address you gave the court reporter?</p> <p>15 A. No.</p> <p>16 Q. The address that you gave the court</p> <p>17 reporter, what is the telephone number there?</p> <p>18 A. Well, it's just an unrelated</p> <p>19 number. I'm not sure what that number has to</p> <p>20 do with the (516) 489-0961.</p> <p>21 Q. I don't know until I get what it is</p> <p>22 and figure it out so --</p> <p>23 A. Well, I'm not sure -- figure out</p> <p>24 what, though?</p> <p>25 Q. I get to ask the questions, and</p>	<p style="text-align: right;">Page 16</p> <p>1 T. BANK</p> <p>2 A. Well, my mother is the sole</p> <p>3 full-time resident, and I spend what I consider</p> <p>4 a large or hefty amount of time at that</p> <p>5 residence as well.</p> <p>6 Q. Do you visit? Do you spend</p> <p>7 evenings and nights there?</p> <p>8 A. I sleep over on a regular basis,</p> <p>9 not a majority of nights but a sizable</p> <p>10 minority.</p> <p>11 Q. Not trying to pry in your personal,</p> <p>12 but where do you spend other nights, then?</p> <p>13 A. In the address that I gave earlier,</p> <p>14 Kew Gardens.</p> <p>15 Q. The Kew Gardens address, is that a</p> <p>16 commercial building or a residential building?</p> <p>17 A. Residential.</p> <p>18 Q. The 0961 number that you indicated</p> <p>19 is a landline and is your mother's full-time</p> <p>20 residency, correct?</p> <p>21 A. That's correct.</p> <p>22 Q. Is your mother married?</p> <p>23 A. No.</p> <p>24 Q. She is not?</p> <p>25 A. No.</p>



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1 T. BANK

2 class action.

3 Q. Based on the frequency that you

4 said that you visit your mother, is it common

5 for you to answer the phone when it's ringing

6 and you are there?

7 A. Define "common."

8 Q. More times than not, you answer it.

9 A. No.

10 Q. It is not common?

11 A. Not under that definition you just

12 gave me.

13 Q. Do you know how long your mother

14 has had that number?

15 A. I do.

16 Q. How long?

17 A. About 49 years.

18 Q. You then spoke with at least two

19 individuals from these two calls that are

20 discussed in the amended complaint; is that

21 right?

22 A. Yes.

23 Q. The prerecorded part, was that,

24 again, substantially similar with the two

25 calls?

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1 T. BANK

2 A. Yes.

3 Q. So they were both about the hearing

4 aid industry?

5 A. Well, about hearing aids. I don't

6 know if I would characterize it as being about

7 the industry but certainly about hearing aids.

8 Q. So I was trying to distinguish

9 between one hearing aid company or just a

10 general introduction to hearing aids.

11 A. Both of the calls were about

12 hearing aids or hearing loss and "Press 1 or

13 say yes if you want to speak to somebody about

14 hearing aids or hearing loss." I don't

15 remember the exact wording, but I do think I

16 have some of it written down.

17 Q. Can you clarify whether or not you

18 recall if a company name was mentioned in the

19 prerecorded part of the call?

20 A. I would have to look at my notes

21 because, offhand, I don't remember.

22 Q. But you were subsequently

23 transferred to a human being, correct?

24 A. Yes.

25 Q. The first call, was it June 30th,

Page 23

1 T. BANK

2 2017?

3 A. That's correct.

4 Q. To the best of your recollection,

5 can you describe how that call went?

6 A. From the time I answered the phone?

7 Q. No. From the time you started

8 talking to the human being.

9 A. I spoke to a human being who

10 identified himself as Mathew Tollis. We

11 discussed hearing aids or the needs that I

12 might have had regarding possibly obtaining the

13 hearing aid. He identified the name of the

14 company and/or its website, which I think are

15 kind of one and the same: Listenclear.com. I

16 provided him with some correct identification

17 information and some incorrect identification

18 information. I think we had a fairly lengthy

19 discussion. I gave him an e-mail address that

20 I do use. In other words, it was not a made-up

21 e-mail address because either I asked him or he

22 told me that he would send me an e-mail

23 relating to our conversation. That's basically

24 it.

25 Q. Did you have to take some

Page 24

1 T. BANK

2 affirmative action -- like you said, "press 1"

3 -- to get to Mr. Tollis?

4 A. I believe I did.

5 Q. I am looking at you, and I'm not

6 seeing you wearing any hearing aids. Is that

7 right?

8 A. No, I am not.

9 Q. Have you ever worn hearing aids?

10 A. Not that I recall.

11 Q. Do you have any interest in

12 information about hearing about hearing aids

13 personally at this time?

14 A. Not -- only mildly.

15 Q. So you are saying you have a mild

16 interest --

17 A. Very mild.

18 Q. You have a very mild interest in

19 hearing aids?

20 A. Correct, yes.

21 Q. Is that why you pressed 1?

22 A. No -- let me just clarify. I don't

23 remember if I pressed 1. I believe I did

24 something. I am virtually certain I did

25 something. It's probably in my notes. I

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Reason for change:

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MICHELE BANK  
TODD C. BANK v ICOT HOLDINGS

September 05, 2019

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Page 1	Page 3
<p>1 2 UNITED STATES DISTRICT COURT 3 EASTERN DISTRICT OF NEW YORK 4 Case No. 1:18-cv-02554-AMD-PK 5 ----- x 6 TODD C. BANK, Individually and on Behalf of All 7 Others Similarly Situated, 8 9 Plaintiff, 10 -against- 11 ICOT HOLDINGS, LLC, and ICOT HEARING SYSTEMS, LLC, 12 Defendants. 13 ----- x 14 ICOT HEARING SYSTEMS, LLC, 15 Third-Party Plaintiff, 16 -against- 17 PROSPECTS DM INC., 18 Third-Party Defendant. 19 ----- x 20 EXAMINATION BEFORE TRIAL of a Nonparty 21 Witness, MICHELE BANK, taken by the Defendant, 22 pursuant to a Subpoena, held at 561 Pacing Way, 23 Westbury, New York 11590, on September 5, 2019, at 24 11:00 a.m., before a Notary Public of the State of 25 New York.</p>	<p>1 2 S T I P U L A T I O N S : 3 4 IT IS HEREBY STIPULATED AND AGREED by 5 and between the attorneys for the respective parties 6 herein, that filing, sealing and certification, and 7 the same are, hereby waived. 8 9 IT IS FURTHER STIPULATED AND AGREED that 10 all objections except as to the form of the 11 question, shall be reserved to the time of the 12 trial. 13 14 IT IS FURTHER STIPULATED AND AGREED that 15 the within deposition may be signed and sworn to by 16 an officer authorized to administer an oath, with 17 the same force and effect as if signed and sworn to 18 before the Court. 19 20 21 22 23 24 25</p>
Page 2	Page 4
<p>1 2 A P P E A R A N C E S : 3 4 TODD C. BANK 5 Attorneys for Plaintiff 6 119-40 Union Turnpike, 4th Floor 7 Kew Gardens, New York 11415 8 9 TODD C. BANK, ESQ. 10 11 12 MAC MURRAY &amp; SHUSTER, LLP 13 Attorneys for Defendants 14 6525 West Campus Oval, Suite 210 15 New Albany, Ohio 43054 16 17 BY: LISA MESSNER, ESQ. 18 19 20 21 22 23 24 25</p>	<p>1 2 MICHELE BANK, the witness herein, having 3 been first duly sworn before a Notary Public of the 4 State of New York, was examined and testified as 5 follows: 6 EXAMINATION BY 7 MS. MESSNER: 8 Q. Please state your name for the record. 9 A. Michele Bank. 10 Q. What is your address? 11 A. 561 Pacing Way, Westbury, New York 11590. 12 Q. Good morning. Could you please state your 13 full name for the record. 14 A. Yes. Michele Bank. 15 Q. Ms. Bank, my name is Lisa Messner. I am 16 representing the defendants in a lawsuit that has 17 been brought by Mr. Bank, and I am going to be 18 asking you some questions today in connection with 19 that case. Have you ever had occasion to have your 20 deposition taken before? 21 A. No. 22 Q. I am just going to kind of explain a 23 little bit of the process just so that you could 24 kind of be aware of what is going to happen today. 25 I am going to ask you some questions. The court</p>

**MICHELE BANK**  
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<p style="text-align: right;">Page 5</p> <p>1 M. BANK</p> <p>2 reporter is typing down your answers. So try, as</p> <p>3 best as you can, to verbalize those answers clearly</p> <p>4 for her. That will help make for a clear</p> <p>5 transcript.</p> <p>6 I don't anticipate taking much of your time</p> <p>7 today, but if you should need or wish for a break at</p> <p>8 any time for any reason, just let me know and I'll</p> <p>9 be happy to accommodate that. If I ask you a</p> <p>10 question that you don't understand or don't hear,</p> <p>11 please let me know and I'll be happy to rephrase or</p> <p>12 restate that question.</p> <p>13 A. Okay.</p> <p>14 Q. So Ms. Bank, what is your current address?</p> <p>15 A. 561 Pacing Way, Westbury, New York.</p> <p>16 Q. How long have you lived there?</p> <p>17 A. Eleven years.</p> <p>18 Q. Does anyone live there with you?</p> <p>19 A. No.</p> <p>20 Q. Are you currently working?</p> <p>21 A. No, I am not.</p> <p>22 Q. Are you taking any medications today or do</p> <p>23 you have any medical conditions that would impair</p> <p>24 your ability to testify today?</p> <p>25 A. No.</p>	<p style="text-align: right;">Page 7</p> <p>1 M. BANK</p> <p>2 telephone number?</p> <p>3 A. Yes, I do.</p> <p>4 Q. Is the telephone number (516) 489-0961 on</p> <p>5 the National Do Not Call Registry?</p> <p>6 A. I don't know.</p> <p>7 Q. You don't recall taking steps to place</p> <p>8 that number on the National Do Not Call Registry?</p> <p>9 A. I might have. I am not sure.</p> <p>10 Q. Mr. Bank is your son, correct?</p> <p>11 A. Correct.</p> <p>12 Q. How often does your son -- when I refer to</p> <p>13 your son, I am referring to Mr. Bank. How often</p> <p>14 does he visit you at your home?</p> <p>15 A. Most weekends.</p> <p>16 Q. How often does he use your telephone?</p> <p>17 A. It varies.</p> <p>18 Q. When he visits, does he have your</p> <p>19 permission to answer your telephone?</p> <p>20 A. Yes, he does.</p> <p>21 Q. Does anyone else use your telephone</p> <p>22 outside of you or Mr. Bank?</p> <p>23 A. No.</p> <p>24 Q. So in this lawsuit I will represent to you</p> <p>25 that Mr. Bank alleges to have received at least two</p>
<p style="text-align: right;">Page 6</p> <p>1 M. BANK</p> <p>2 Q. So I had described at the beginning that</p> <p>3 this matter involves a lawsuit brought by Mr. Bank.</p> <p>4 Do you have any understanding what the lawsuit is</p> <p>5 about?</p> <p>6 A. Somewhat.</p> <p>7 Q. Can you tell me what your understanding of</p> <p>8 the lawsuit is about?</p> <p>9 A. I guess it's about a robocall and from an</p> <p>10 ear company, hearing aid company, and that's it.</p> <p>11 Q. Is the telephone number of (516)489-0961</p> <p>12 your telephone number?</p> <p>13 A. Yes, it is.</p> <p>14 Q. How long have you had that telephone</p> <p>15 number?</p> <p>16 A. For as long as I am living here.</p> <p>17 Q. So that was for as long as you were living</p> <p>18 there, would that be the 11 years?</p> <p>19 A. Yes.</p> <p>20 Q. Is that telephone a land line?</p> <p>21 A. Yes, it is.</p> <p>22 Q. What telephone company provides the</p> <p>23 telephone land for that telephone number?</p> <p>24 A. Cablevision/Optimum.</p> <p>25 Q. Do you pay the bills associated with that</p>	<p style="text-align: right;">Page 8</p> <p>1 M. BANK</p> <p>2 phone calls from my client related to hearing aids,</p> <p>3 one being on June 30, 2017, and one being on May 30,</p> <p>4 2018. Do you recall being present for either of</p> <p>5 those calls?</p> <p>6 A. No.</p> <p>7 Q. Do you remember anything in particular</p> <p>8 about either of those calls?</p> <p>9 A. No, I don't.</p> <p>10 Q. Do you have caller ID on your phone?</p> <p>11 A. Yes.</p> <p>12 Q. Do you recall answering any telephone</p> <p>13 calls with the caller ID of (516) 217-3754?</p> <p>14 A. No, I don't.</p> <p>15 Q. Do you recall ever receiving any calls to</p> <p>16 your home regarding someone trying to sell hearing</p> <p>17 aids?</p> <p>18 A. Not really, no.</p> <p>19 Q. Do you have an email address?</p> <p>20 A. Yes, I do.</p> <p>21 Q. Do you have more than one email address?</p> <p>22 A. No.</p> <p>23 Q. What is your email address?</p> <p>24 A. Shelbank1@aol.com.</p> <p>25 Q. Does anyone other than you use your email?</p>

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1 M. BANK

2 I N D E X

3 WITNESS EXAMINATION BY PAGE

4 Michele Bank Ms. Messner 4

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1 M. BANK

2 ESQUIRE ERRATA SHEET

3

4 Esquire Job ID: 4450424

5 Case Caption: TODD C. BANK, Individually and on

6 Behalf of All Others Similarly Situated vs. ICOT

7 HOLDINGS LLC, et al.

8

9 DECLARATION UNDER PENALTY OF PERJURY

10

11 I declare under penalty of perjury that I have

12 read the entire transcript of my Deposition taken

13 in the above-captioned matter or the same

14 has been read to me and the same is true and

15 accurate, save and except for changes and/or

16 corrections, if any, as indicated by me on the

17 DEPOSITION ESQUIRE ERRATA SHEET hereof, with the

18 understanding that I offer these changes as if still

19 under oath. Signed on the \_\_\_\_ day of

20 \_\_\_\_\_, 20\_\_\_\_.

21 \_\_\_\_\_

22 MICHELE BANK

23

24

25

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1 M. BANK

2 C E R T I F I C A T E

3 I, CHRISTINA FERRARO, a shorthand

4 reporter and Notary Public within and for the State

5 of New York, do hereby certify:

6 That the witness whose testimony is

7 hereinbefore set forth was duly sworn by me, and the

8 foregoing transcript is a true record of the

9 testimony given by such witness.

10 I further certify that I am not related to

11 any of the parties to this action by blood or

12 marriage, and that I am in no way interested in the


13 outcome of this matter.

14

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19 CHRISTINA FERRARO

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1 M. BANK

2 DEPOSITION ERRATA SHEET

3 Page No. \_\_\_\_ Line No. \_\_\_\_ Change to: \_\_\_\_

4 \_\_\_\_\_

5 Reason for change: \_\_\_\_\_

6 Page No. \_\_\_\_ Line No. \_\_\_\_ Change to: \_\_\_\_

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8 Reason for change: \_\_\_\_\_

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23 Reason for change: \_\_\_\_\_

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25 SIGNATURE: \_\_\_\_\_ DATE: \_\_\_\_\_

MICHELE BANK